

REMARKS

The Examiner rejected each of claims 6 and 10-14, the only claims pending in the application. Claim 10 has been amended without adding new matter. Applicants request favorable reconsideration of this application in view of the following remarks.

1. Rejection of Claims 6 and 10-14 for Double Patenting

The Examiner rejected claims 6 and 10-14 “under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1” of U.S. Patent No. 6,328,714 (“Bellhouse ‘714”) in view of U.S. Patent No. 5,630,796 (“Bellhouse ‘796”). For the following reasons, Applicants respectfully traverse this rejection.

Claim 6 recites (with emphasis added): “a cylindrical *filter* medium which fits over and substantially surrounds the elongate particle acceleration nozzle and rests upon the external shoulder provided by the flange.” As amended, claim 10 (from which claims 11 and 12 depend) recites (with emphasis added): “a nozzle comprising a cylindrical filter medium.” Similarly, claim 13 (from which claim 14 depends) recites (with emphasis added): “a cylindrical *filter* medium which fits over and substantially surrounds the nozzle and rests upon the external shoulder provided by the flange.”

The Examiner admits that claim 1 of Bellhouse ‘714 fails to teach the recited a needleless syringe and nozzle limitations. To cure this deficiency, the Examiner relies on Bellhouse ‘796. With respect to Bellhouse ‘796, the Examiner cites to the cylindrical *silencer* part 39 in Bellhouse ‘796 as providing a teaching for the recited *filter* limitation abutting an annular flange. Clearly, this is not true.

The recited cylindrical filter medium acts to filter particles that may “rebound from the target surface and be dispersed with the spacer shroud” 12. *See, e.g.*, page 10, lines 4-15. By way of contrast, the silencer part 39 in Bellhouse ‘796 acts to quiet the sonic boom of the injection. *See* U.S. Pat. No. 5,630,796 at col. 9, lines 9-25 (*i.e.*, the same passage previously cited by the Examiner). Moreover, the cylindrical silencer part 39 serves essentially the same noise damping function as the shroud 12 in the instant application. *See* page 10, lines 11-13. In other words, as the silencer part 39 does not act as a particle filter, Bellhouse ‘796 does not teach the cylindrical *filter* medium limitation recited in claims 6, 10, and 13 and, therefore, fails to cure the deficiencies of claim 1 of Bellhouse ‘714.

Accordingly, as Bellhouse ‘796 fails to cure the deficiencies of claim 1 of Bellhouse ‘714, the rejection for obviousness type double patenting of claims 6, 10, and 13 should be withdrawn. Moreover, as claims 11 and 12 depend from claim 10 and as claim 14 depends

from claim 13, the obviousness type double patenting rejection of each of these dependent claims should also be withdrawn, without regard to the other patentable limitations recited therein. Accordingly, Applicants earnestly solicit a withdrawal of the obviousness type double patenting rejection of claims 6 and 10-14.

2. Rejection of Claims 6 and 13

The Examiner rejected claims 6 and 13 under 35 U.S.C. § 102(b) as being anticipated by Bellhouse '796. Applicants respectfully traverse this rejection.

As previously discussed, claim 6 recites (with emphasis added): "a cylindrical *filter* medium which fits over and substantially surrounds the elongate particle acceleration nozzle and rests upon the external shoulder provided by the flange." Similarly, claim 13 recites (with emphasis added): "a cylindrical *filter* medium which fits over and substantially surrounds the nozzle and rests upon the external shoulder provided by the flange." The Examiner cites to the cylindrical *silencer part* 39 as teaching this recited filter limitation. For the reasons previously stated, the silencer part 39 can not be analogized to the recited filter limitation.

Therefore, as Bellhouse '796 fails to teach or suggest each of the limitations of claims 6 and 13, it can not be used to reject the claims under 35 U.S.C. § 102(b). Accordingly, Applicants respectfully solicit a withdrawal of the rejection of claims 6 and 13 under § 102(b).

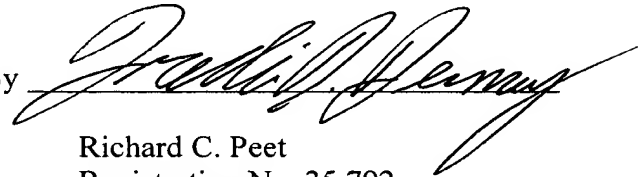
CONCLUSION

For the aforementioned reasons, claims 6 and 10-14 are now in condition for allowance. A Notice of Allowance at an early date is respectfully requested. The Examiner is invited to contact the undersigned if such communication would expedite the prosecution of the application.

Respectfully submitted,

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